

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KENNETH FERENCE,

Plaintiff,

vs.

ROMAN CATHOLIC DIOCESE OF  
GREENSBURG,

Defendant.

**ELECTRONICALLY FILED**

No. 2:22-cv-00797-NR-MPK

District Judge J. Nicholas Ranjan  
Magistrate Judge Maureen P. Kelly

**JURY TRIAL DEMANDED**

**DEFENDANT’S MOTION TO BIFURCATE OR LIMIT DISCOVERY**

AND NOW comes Defendant Roman Catholic Diocese of Greensburg (“Diocese”) through its counsel, Bernard P. Matthews, Jr., Esquire, and Alexander W. Brown, Esquire, of Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. and Philip J. Murren, Esquire, David R. Dye, Esquire, and Katherine M. Fitz-Patrick, Esquire of Ball, Murren & Connell, LLC, and files this Motion to Bifurcate or Limit Discovery.

1. Diocese seeks to bifurcate or limit discovery to protect its First Amendment interests while focusing a factual inquiry on whether Title VII’s religious exemptions, the ministerial exception, or the church autonomy doctrine preclude Plaintiff Kenneth Ference’s (“Mr. Ference”) suit.

2. Counsel for the Diocese discussed bifurcating or limiting discovery with Mr. Ference’s counsel during the Rule 26(f) meeting so that a factual record is developed to first determine if the Diocese (and Aquinas Academy in particular) is exempt from Title VII under the religious exemptions and whether the ministerial exception or church autonomy doctrine applies.

3. The Diocese is filing this motion because Mr. Ference’s counsel has not agreed to bifurcate or limit discovery to the above subjects and instead seeks wide-ranging discovery into

the Diocese's application of religious doctrine to Mr. Ference's termination as compared to the Diocese's other employment decisions regarding lay teachers. (ECF No. 26 p. 2.)

4. Discovery should be divided into two phases: (1) developing a record to adjudicate the Diocese's Title VII religious exemption, ministerial exception, and religious autonomy defenses in a summary judgment motion; and (2), if Mr. Ference's suit survives the Diocese's summary judgment motion, developing a record as to liability and damages.

5. Bifurcating or limiting discovery in this fashion would protect the Diocese's First Amendment rights under the Religion Clauses while also being consistent with the Court's order sustaining, in part, the Diocese's objections to the report and recommendation denying the Diocese's motion to dismiss. (ECF No. 24.)

6. In his Order, Judge Ranjan held that discovery was necessary to conduct the multi-factor analysis to determine whether Title VII's religious exemptions apply to Aquinas Academy. (ECF No. 24, pp. 4-5.); Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC, 565 U.S. 171, 190–92 (2012); Our Lady of Guadalupe Sch. v. Morrissey-Berru, 140 S.Ct. 2049, 2062–2066 (2020).

7. Many courts within and beyond the Third Circuit's boundaries have limited or bifurcated discovery to first decide the ministerial exception, church autonomy doctrine or the applicability of statutory religious organization exemptions.

8. The four bifurcation factors also favor granting the Diocese's motion.

9. The Diocese hereby incorporates by reference its contemporaneously filed brief in support of this motion.

10. The Diocese hereby incorporates by reference its contemporaneously filed proposed order.

11. The Diocese hereby incorporates by reference its contemporaneously filed certificates of service with this motion.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

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